

(1) governing the preservation, management, and operation of the Battleship "Texas" consistent with the Standards for Historic Vessel Preservation Projects with Guidelines for Applying the Standards published by the Secretary of the United States Department of the Interior as those standards existed on January 1, 2019;

(2) requiring the nonprofit foundation described by Section 22.261 to consult with the state historic preservation officer on matters related to the preservation or repair of the battleship; and

(3) regarding the protection of the public's interest in maintaining and preserving a priceless historical asset in a manner that ensures the public has access to the asset and an opportunity to provide comment regarding the preservation of the asset.

SECTION 4. The Parks and Wildlife Department shall enter into the memorandum of understanding required by Section 22.261, Parks and Wildlife Code, as amended by this Act, not later than the later of:

(1) September 1, 2019; or

(2) the 90th day after the effective date of this Act.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

Passed the Senate on April 11, 2019: Yeas 31, Nays 0; May 20, 2019, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 22, 2019, House granted request of the Senate; May 25, 2019, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0; passed the House, with amendment, on May 16, 2019: Yeas 134, Nays 0, two present not voting; May 22, 2019, House granted request of the Senate for appointment of Conference Committee; May 25, 2019, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, two present not voting.

Approved June 10, 2019.

Effective June 10, 2019.

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## ESTABLISHING A COUNCIL ON LONG-TERM CARE FACILITIES AND TO A DISPUTE RESOLUTION PROCESS REGARDING THOSE FACILITIES

### CHAPTER 637

S.B. No. 1519

#### AN ACT

relating to establishing a council on long-term care facilities and to a dispute resolution process regarding those facilities.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 531.058(a-1), Government Code, as amended by Chapters 590 (S.B. 924) and 836 (H.B. 2025), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(a-1) As part of the informal dispute resolution process established under this section, the commission shall contract with an appropriate disinterested person to adjudicate disputes between an institution or facility licensed under Chapter 242, Health and Safety Code, or a facility licensed under Chapter 247, Health and Safety Code, and the commission concerning a statement of violations prepared by the commission in connection with a survey conducted by the commission of the institution or facility. Section 2009.053 does not apply to the selection of an appropriate disinterested person under

this subsection. The person with whom the commission contracts shall adjudicate all disputes described by this subsection. *The informal dispute resolution process for the statement of violations must require:*

(1) *the surveyor who conducted the survey for which the statement was prepared to be available to clarify or answer questions related to the facility or the statement that are asked by the person reviewing the dispute or by the facility; and*

(2) *the commission's review of the institution's or facility's informal dispute resolution request to be conducted by a registered nurse with long-term care experience for a standard of care violation.*

SECTION 2. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0581 to read as follows:

Sec. 531.0581. **LONG-TERM CARE FACILITIES COUNCIL.** (a) *In this section:*

(1) *"Council" means the Long-Term Care Facilities Council.*

(2) *"Long-term care facility" means a facility subject to regulation under Section 32.021(d), Human Resources Code, or Chapter 242, 247, or 252, Health and Safety Code.*

(b) *The executive commissioner shall establish a Long-Term Care Facilities Council as a permanent advisory committee to the commission. The council is composed of the following members appointed by the executive commissioner:*

(1) *at least one member who is a for-profit nursing facility provider;*

(2) *at least one member who is a nonprofit nursing facility provider;*

(3) *at least one member who is an assisted living services provider;*

(4) *at least one member responsible for survey enforcement within the state survey and certification agency;*

(5) *at least one member responsible for survey inspection within the state survey and certification agency;*

(6) *at least one member of the state agency responsible for informal dispute resolution;*

(7) *at least one member with expertise in Medicaid quality-based payment systems for long-term care facilities;*

(8) *at least one member who is a practicing medical director of a long-term care facility; and*

(9) *at least one member who is a physician with expertise in infectious disease or public health.*

(c) *The executive commissioner shall designate a member of the council to serve as presiding officer. The members of the council shall elect any other necessary officers.*

(d) *A member of the council serves at the will of the executive commissioner.*

(e) *The council shall meet at the call of the executive commissioner.*

(f) *A member of the council is not entitled to reimbursement of expenses or to compensation for service on the council.*

(g) *The council shall study and make recommendations regarding a consistent survey and informal dispute resolution process for long-term care facilities, Medicaid quality-based payment systems for those facilities, and the allocation of Medicaid beds in those facilities. The council shall:*

(1) *study and make recommendations regarding best practices and protocols to make survey, inspection, and informal dispute resolution processes more efficient and less burdensome on long-term care facilities;*

(2) *recommend uniform standards for those processes;*

(3) *study and make recommendations regarding Medicaid quality-based payment systems and a rate-setting methodology for long-term care facilities; and*

*(4) study and make recommendations relating to the allocation of and need for Medicaid beds in long-term care facilities, including studying and making recommendations relating to:*

*(A) the effectiveness of rules adopted by the executive commissioner relating to the procedures for certifying and decertifying Medicaid beds in long-term care facilities; and*

*(B) the need for modifications to those rules to better control the procedures for certifying and decertifying Medicaid beds in long-term care facilities.*

*(h) Not later than January 1 of each odd-numbered year, the council shall submit a report on the council's findings and recommendations to the executive commissioner, the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate legislative committees.*

*(i) Chapter 2110 does not apply to the council.*

SECTION 3. Section 242.0445, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

*(a-1) If the commission or the commission's representative conducting an inspection, survey, or investigation under Section 242.043 or 242.044 identifies a violation that constitutes immediate jeopardy to the health or safety of a resident:*

*(1) the commission shall immediately notify the facility's management of the violation; and*

*(2) a commission representative shall remain in or be accessible to the facility until the commission receives the facility's plan of removal related to the violation.*

SECTION 4. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Long-Term Care Facilities Council" means the council established under Section 531.0581, Government Code, as added by this Act.

(3) "Long-term care facility" has the meaning assigned by Section 531.0581, Government Code, as added by this Act.

(b) Not later than September 1, 2021, the Long-Term Care Facilities Council shall assess the impact the implementation of Section 2, Chapter 1117 (H.B. 3523), Acts of the 84th Legislature, Regular Session, 2015, which amended Section 533.00251(c), Government Code, effective September 1, 2021, would have on long-term care facilities and make a recommendation to the commission regarding its implementation. Notwithstanding that section, if the council advises that implementing that section would have a significant impact on long-term care facilities, the commission may delay the implementation of that section until September 1, 2023, provided that the commission publishes notice of that delay in the Texas Register as soon as practicable.

(c) This section expires September 1, 2023.

SECTION 5. Not later than December 1, 2019, the executive commissioner of the Health and Human Services Commission shall establish the Long-Term Care Facilities Council and appoint the council members as required by Section 531.0581, Government Code, as added by this Act.

SECTION 6. The Health and Human Services Commission is required to implement a provision of this Act only if the legislature appropriates money to the commission specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement a provision of this Act using other appropriations that are available for that purpose.

SECTION 7. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

Passed the Senate on May 3, 2019: Yeas 31, Nays 0; the Senate concurred in House amendments on May 25, 2019: Yeas 30, Nays 0; passed the House, with amendments, on May 22, 2019: Yeas 107, Nays 36, two present not voting.

Approved June 10, 2019.

Effective June 10, 2019.

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## APPLICATION OF THE SALES AND USE TAX TO CERTAIN PROPERTY AND SERVICES

### CHAPTER 638

S.B. No. 1525

#### AN ACT

relating to the application of the sales and use tax to certain property and services.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 151.0028, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) *"Amusement services" does not include services provided through coin-operated machines that are operated by the consumer.*

SECTION 2. Section 151.0045, Tax Code, is amended to read as follows:

Sec. 151.0045. "PERSONAL SERVICES". "Personal services" means those personal services listed as personal services under Group 721, Major Group 72 of the Standard Industrial Classification Manual, 1972, and includes massage parlors, escort services, and Turkish baths under Group 729 of said manual but does not include any other services listed under Group 729 unless otherwise covered under this *chapter [Act]*, prepared by the statistical policy division of the office on management and budget, office of the president of the United States. *The term does not include services provided through coin-operated machines that are operated by the consumer.*

SECTION 3. Section 151.006, Tax Code, is amended by amending Subsections (a) and (c) and adding Subsection (e) to read as follows:

(a) "Sale for resale" means a sale of:

(1) tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of reselling it ~~[with or]~~ as a taxable item as defined by Section 151.010 in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business in the form or condition in which it is acquired or as an attachment to or integral part of other tangible personal property or taxable service;

(2) tangible personal property to a purchaser for the sole purpose of the purchaser's leasing or renting it in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business to another person, but not if incidental to the leasing or renting of real estate;

(3) tangible personal property to a purchaser who acquires the property for the purpose of transferring it in the United States of America or a possession or territory of the United States of America or in the United Mexican States as an integral part of a taxable service;

(4) a taxable service performed on tangible personal property that is held for sale by the purchaser of the taxable service; or